



February 17, 2006

ENGROSSED SENATE BILL No. 83

DIGEST OF SB 83 (Updated February 15, 2006 4:31 pm - DI 69)

Citations Affected: IC 35-41; IC 35-44; noncode.

Synopsis: Resisting law enforcement. Imposes a mandatory minimum sentence for a person who commits resisting law enforcement and: (1) draws or uses a deadly weapon, inflicts bodily injury on or causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person; (2) operates a vehicle in a manner that causes serious bodily injury to another person; or (3) operates a motor vehicle in a manner that causes the death of another person. Provides that a taser, electronic stun weapon, chemical, or other device that is designed to temporarily incapacitate a person is not a deadly weapon if it is used by a law enforcement officer trained to use the weapon who employs the weapon in accordance with the law enforcement officer's training and while lawfully engaged in the execution of official duties.

Effective: July 1, 2006.

Lubbers, Wyss, Lanane
(HOUSE SPONSORS — TORR, BARDON, THOMAS)

January 9, 2006, read first time and referred to Committee on Judiciary.
January 26, 2006, amended, reported favorably — Do Pass.
January 30, 2006, read second time, amended, ordered engrossed.
January 31, 2006, engrossed. Read third time, passed. Yeas 48, nays 2.

HOUSE ACTION

February 7, 2006, read first time and referred to Committee on Courts and Criminal Code.
February 16, 2006, amended, reported — Do Pass.

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February 17, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 83

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-41-1-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. **(a) Except as**
3 **provided in subsection (b), "deadly weapon" means the following:**

4 (1) A loaded or unloaded firearm.

5 (2) A destructive device, weapon, device, taser (as defined in
6 IC 35-47-8-3) or electronic stun weapon (as defined in
7 IC 35-47-8-1), equipment, chemical substance, or other material
8 that in the manner it is used, or could ordinarily be used, or is
9 intended to be used, is readily capable of causing serious bodily
10 injury.

11 (3) An animal (as defined in IC 35-46-3-3) that is:

12 (A) readily capable of causing serious bodily injury; and

13 (B) used in the commission or attempted commission of a
14 crime.

15 (4) A biological disease, virus, or organism that is capable of
16 causing serious bodily injury.

17 **(b) The term does not include:**

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- (1) a taser (as defined in IC 35-47-8-3);
- (2) an electronic stun weapon (as defined in IC 35-47-8-1);
- (3) a chemical designed to temporarily incapacitate a person;
- or
- (4) another device designed to temporarily incapacitate a person;

if the device described in subdivisions (1) through (4) is used by a law enforcement officer who has been trained in the use of the device and who uses the device in accordance with the law enforcement officer's training and while lawfully engaged in the execution of official duties.

SECTION 2. IC 35-44-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A person who knowingly or intentionally:

- (1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of ~~his~~ **the officer's** duties; ~~as an officer;~~
- (2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or
- (3) flees from a law enforcement officer after the officer has, by visible or audible means, **including operation of the law enforcement officer's siren or emergency lights**, identified himself ~~or herself~~ and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

- (1) Class D felony if:
 - (A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or
 - (B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on **or otherwise causes bodily injury to** another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;
- (2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; and
- (3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

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(c) For purposes of this section, a law enforcement officer includes an ~~alcoholic beverage~~ enforcement officer **of the alcohol and tobacco commission** and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

SECTION 3. [EFFECTIVE JULY 1, 2006] IC 35-44-3-3, as amended by this act, applies only to acts committed after June 30, 2006.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 83, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-41-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. **(a) Except as provided in subsection (b), "deadly weapon" means the following:**

- (1) A loaded or unloaded firearm.
- (2) A destructive device, weapon, device, ~~taser (as defined in IC 35-47-8-3) or electronic stun weapon (as defined in IC 35-47-8-1)~~, equipment, chemical substance, or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.
- (3) An animal (as defined in IC 35-46-3-3) that is:
 - (A) readily capable of causing serious bodily injury; and
 - (B) used in the commission or attempted commission of a crime.
- (4) A biological disease, virus, or organism that is capable of causing serious bodily injury.

(b) The term does not include:

- (1) a taser (as defined in IC 35-47-8-3);
- (2) an electronic stun weapon (as defined in IC 35-47-8-1);
- (3) a chemical designed to temporarily incapacitate a person;
- or
- (4) another device designed to temporarily incapacitate a person;

if the device described in subdivisions (1) through (4) is used by a law enforcement officer who has been trained in the use of the device and who uses the device in accordance with the law enforcement officer's training."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 83 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 83 be amended to read as follows:

Page 2, line 10, delete "." and insert "**and while lawfully engaged in the execution of official duties.**".

(Reference is to SB 83 as printed January 27, 2006.)

LANANE

SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Engrossed Senate Bill 83.

LUBBERS

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 83, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 5, reset in roman "taser (as defined in".

Page 1, reset in roman line 6.

Page 1, line 7, reset in roman "IC 35-47-8-1),"

Page 3, delete lines 11 through 12.

Page 3, line 13, delete "(3)" and insert "**(2)**".

Page 3, line 13, delete "two (2)" and insert "**one (1)**".

Page 3, line 14, delete "convictions" and insert "**conviction**".

Page 3, line 15, delete "(4)" and insert "**(3)**".

Page 3, line 15, delete "three (3)" and insert "**two (2)**".

Page 3, delete lines 17 through 19.

and when so amended that said bill do pass.

(Reference is to SB 83 as reprinted January 31, 2006.)

ULMER, Chair

Committee Vote: yeas 7, nays 2.

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